

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.10135 of 2007

Dated: 26-06-2007

Between:

Vegi Sambasiva Rao.

..... PETITIONER

AND

The Government of Andhra Pradesh,
rep. by its Principal Secretary, Hyderabad, and others.

.....RESPONDENTS

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.10135 of 2007

ORDER:

This writ petition is filed challenging the notice dated 30.03.2007 in Form I issued under Rule 3 of the Andhra Pradesh Assigned Lands (Prohibition of Transfers) Rules, 2007 (2007 Rules, for brevity) calling upon the petitioner to show-cause as to why the assignment made to him should not be cancelled and the land should not be resumed to the Government for contravention of Section 3(2) of the Andhra Pradesh Assigned Lands (Prohibition of Transfers) Act, 1977 (the Act, for brevity). The petitioner seeks a writ of Mandamus to declare said notice as illegal and arbitrary.

The petitioner purchased land admeasuring Acs.8.31 in Pendurthi Village and Mandal, Visakhapatnam District, in 1966 from Teketi Tatarao under a registered sale deed. Sometime later, he came to know that out of said land, an extent of Acs.5.09 in survey No.263/2 is assigned land. Claiming himself to be a landless poor person, he made an application to the Tahsildar, Visakhapatnam, seeking assignment. Considering said application, by proceedings dated 21.05.1984, the Tahsildar granted patta assigning said land admeasuring Acs.5.09. Alleging that Teketi Appanna and others tried to interfere with his possession, the petitioner filed a suit, being O.S.No.521 of 1988 on the file of the Court of II Additional Senior Civil Judge, Visakhapatnam. Statedly it was decreed in favour of the petitioner. The petitioner alleges that the defendant therein, having failed in the suit, got issued a notice under Section 3(2) of the Act, on 17.11.2001, against which the petitioner filed O.S.No.946 of 2001 on the file of the Court of II Senior Civil Judge, Visakhapatnam. The same was dismissed on 08.08.2006, aggrieved by which the petitioner filed A.S.No.254 of 2006 on the file of the Court of the Principal District Judge, Visakhapatnam, which is pending. At this stage the Tahsildar, fourth respondent herein, issued the impugned notice calling upon the petitioner to submit explanation as to why the assignment should not be cancelled. The petitioner submitted explanation on 21.04.2007 denying the allegation in the impugned notice that he transferred the assigned land in survey No.263/2.

The learned counsel for the petitioner submits that the petitioner never transferred the assigned land and that he is in continuous possession of the land. Secondly he submits that fourth respondent issued the impugned notice at the behest of third parties and therefore the impugned notice is unsustainable.

The learned counsel for the petitioner does not dispute the legal position that the Tahsildar issued notice in Form I as required under Section 4 of the Act read with Rule 3 of the Rules. Therefore, insofar as fourth respondent in issuing the impugned notice is concerned, the same cannot be faulted. Further at the stage of show-cause, a writ petition would not lie. The petitioner has already submitted explanation. Therefore, he has to await orders from fourth respondent, who is directed to dispose of the matter within a period of four weeks from the date of receipt of a copy of this order. It shall be open to the petitioner to raise all the grounds before fourth respondent.

The writ petition, with the above observations, is accordingly dismissed. No costs.

(V.V.S.RAO, J)

26th June, 2007
ghn